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4 SELECT COMMITTEE TO INVESTIGATE THE
5 JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

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11 DEPOSITION OF: JAMES DEGRAFFENREID

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15 Thursday, February 24, 2022

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17 Washington, D.C.

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20 The deposition in the above matter was held via Webex, commencing at 2:12 p.m.

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2 Appearances:

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5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

7

8 [REDACTED] STAFF ASSOCIATE

9 [REDACTED] CHIEF CLERK

10 [REDACTED], INVESTIGATIVE COUNSEL

11 [REDACTED] PROFESSIONAL STAFF MEMBER

12 [REDACTED] OF COUNSEL TO THE VICE CHAIR

13

14

15 For THE WITNESS:

16

17 GEORGE KELESIS

18 BRIAN HARDY

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[REDACTED] We are now on the record.

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It is 2:12 p.m. Eastern on February 24, 2022. This is the deposition of Mr. James DeGraffenreid, conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol, pursuant to House Resolution 503.

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At this time, I'd like to ask Mr. DeGraffenreid to please state his full name and to spell his last name for the record.

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The Witness. My full name is James Walter DeGraffenreid, D-e-G-r-a-f-f-e-n-r-e-i-d.

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[REDACTED] Thank you, Mr. DeGraffenreid. This will be a staff-led interview. My name is [REDACTED], and I am an investigative counsel for the Select Committee. I am joined here today by [REDACTED] who is Senior Investigative Counsel for the Select Committee, and also serves as of counsel to the Vice Chair, Representative Liz Cheney. Also in the room is [REDACTED] who is professional staff for the Select Committee.

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Members of the Select Committee may be joining us and leaving during the course of our discussion, and if any of them so choose they, of course, may ask questions as well. I'll do my best to announce for the record whenever they join, but right now I don't believe that any of them are here with us.

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At this time, would Mr. DeGraffenreid's counsel please state their names for the record.

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23

Mr. Kelesis. This is George Kelesis. I am Mr. DeGraffenreid's personal counsel. Mr. Hardy. This is Brian Hardy with the law firm of Marquis Aurbach on behalf of Mr. DeGraffenreid.

24

25

[REDACTED] Thank you.

So at this time, I'd like to ask the court reporter to please administer the oath to

1 Mr. DeGraffenreid.

2 The Reporter. Do you solemnly declare and affirm under the penalty of perjury
3 that the testimony you are about to give will be the truth, the whole truth, and nothing
4 but the truth?

5 The Witness. I do.

6 [REDACTED] Thank you.

7 Before we begin, I'd like to cover a few ground rules. So, as you saw, Mr.
8 DeGraffenreid, there is an official reporter who is transcribing the record of this
9 interview.

10 You and your attorneys will have an opportunity to review the transcript and
11 suggest any corrections before it's finalized. And, as I'm sure you can also tell, this is
12 being videotaped and audio recorded, but I will note that the court reporter's transcript is
13 the official record of the proceeding.

14 Because this is being transcribed, we ask that you wait until each question is
15 completed before you begin your response and, likewise, we will try and wait until your
16 responses are completed before we ask our next question. That just helps us ensure
17 that the transcript of the record is as complete and accurate as possible.

18 The stenographer cannot record nonverbal responses, such as shaking your head
19 or saying uh-huh, so it's important that you answer each question with an audible verbal
20 response, yes, no, I don't know.

21 I want to make sure that you understand that you're appearing pursuant to a
22 subpoena from the Select Committee dated January 28, 2022, which is in the materials
23 that have been provided to your counsel, and will be included in the record.

24 As you know, you are under oath, meaning that any knowing false statement that
25 you make today can constitute perjury as well as a violation of 18 United States Code

1 1001. So it's important that you tell the truth at all times.

2 It's, of course, important that you understand our questions and are able to
3 answer them to the best of your ability. So, to that end, please don't hesitate to ask us
4 to repeat a question if it's not clear, or if you don't understand.

5 Similarly, if you don't know the answer to a question, you can say you don't know
6 or that you don't recall, but keep in mind that you're under oath and you have to be
7 truthful. So if you do recall the answer to a question, you must say so.

8 If you need to consult with your counsel at any time during the interview, that is
9 certainly no problem. We can disable the camera and place the audio on mute so that
10 you can converse with your counsel as needed. So please just let us know if that's ever
11 necessary.

12 And if you need a break for any other reason during the interview, please let us
13 know. I'll also try and make sure that we take regular short breaks during the course of
14 our conversation.

15 Do you have any questions for us before we begin?

16 The Witness. I do not.

17 [REDACTED] Thank you.

18 BY [REDACTED]

19 Q So I will begin by directing your attention to exhibit 40, which we will show
20 you on the screen.

21 Mr. Hardy. [REDACTED] can we just make sure that on the record today, that we're
22 clear, similar to what we did before, that you understand that we're seeking to preserve
23 the attorney-client privilege and any questions you ask are not intended to seek
24 attorney-client information?

25 [REDACTED] Absolutely.

1 Mr. Hardy. Perfect. Then we're good and we can proceed forward.

2 [REDACTED] Yeah. Thank you, Brian.

3 BY [REDACTED]

4 Q All right. So on the screen I hope you can see, Mr. DeGraffenreid, this is a
5 letter from the chairman, Benny Thompson, dated January 28, 2022, addressed to you.

6 Is this a copy of the subpoena that you received from the select committee, as far
7 as you can tell?

8 A As far as I can tell from what is shown, yes, it is.

9 Q And do you understand that you are appearing here today pursuant to the
10 subpoena with your name, Mr. James DeGraffenreid, on it?

11 A Yes, I do.

12 Q Part of the subpoena required you to produce documents and information,
13 including electronically stored information. Do you understand that?

14 A I do understand that.

15 Q And did you search for records that are responsive to the subpoena
16 schedule?

17 A Yes, I did.

18 Q Have you produced to the select committee all the documents and
19 communications in your possession, custody, or control that are responsive to the
20 requests in the subpoena?

21 A To the best of my knowledge, I have, yes.

22 Q I'll ask a few questions just to get a sense of that. But did you search your
23 personal devices for responsive information, including your laptop, phone, or any other
24 devices?

25 A Yes, I did.

1 Q Did you use any secured messaging applications on any of your personal
2 devices, and by that, I mean applications like Signal, Telegram or WhatsApp -- and, if so,
3 have you searched for and produced any responsive materials from those applications?

4 A I did use those applications, and I believe you saw from what was submitted
5 that I did submit that responsive information.

6 Q Did you have any devices or email accounts that you used in an official
7 capacity, for example, from the Nevada GOP and, if so, have you searched for and
8 produced any responsive materials?

9 A Can you please repeat that question?

10 Q Sure. So did you have any devices or email accounts that you used in an
11 official capacity, for example, a Nevada GOP email account, or a laptop that was provided
12 to you by the Nevada GOP, and, if so, did you search those devices and accounts for
13 responsive information?

14 A I had no devices provided to me by the Nevada GOP. I do have an email
15 account, and I did search that account.

16 Q Did you keep any handwritten or electronic notes and, if so, did you search
17 those for responsive materials?

18 A I don't recall any handwritten notes. Anything that I would have had, I did
19 search.

20 Q Did you have any involvement in tweets that are put out by the Nevada GOP
21 Twitter account?

22 A On occasion, before tweets go out, they are circulated to the leadership of
23 the party to review.

24 Q And do you typically provide input on those tweets whenever you see them?

25 A Occasionally.

1 Q Understood. Did you coordinate with any person other than your
2 attorneys, or your attorneys' sort of administrative staff in responding to the document
3 requests in the subpoena?

4 A I did not.

5 Q All right. So, to start, Mr. DeGraffenreid, I'd appreciate if you could briefly
6 summarize your professional background, starting with any schooling and then leading up
7 to today.

8 A Okay. I graduated high school from Mayfair High School in Lakewood,
9 California in 1980. I attended some college, did not obtain a degree from any college.
10 For the last 20 years I have been a firefighter/EMT for Mono County Fire Rescue. I also
11 own a small business, an insurance agency in Minden, Nevada, with my wife. And then I
12 have been involved in the Nevada GOP since approximately 2008.

13 Q Do you have an official role in the Nevada GOP?

14 A I am currently the Republican National Committeeman for the State of
15 Nevada.

16 Q And have you held that role since 2008, or has your title or your capacity
17 changed over the years?

18 A My capacity has changed. I was originally just a member of the party. I
19 have been the Republican National Committeeman since 2020.

20 Q Understood. Did you have any formal role in either the 2016 or 2020
21 Trump Presidential campaigns and, if so, please describe what those formal
22 responsibilities were?

23 A I didn't have any formal responsibilities relative to the campaign itself.
24 During the 2016 campaign, I was the vice chairman of the State party. In that role, our
25 job is to identify voters, register voters, turn them out to vote, basically support the

1 campaigns of all Republican candidates in the State. And so, I did those things in
2 connection with my role as vice chairman of the party.

3 Q All right. Just to make sure that I understand clearly, so you've held a role
4 as National Committeeman and you've also held a role as vice chair of the State party at
5 some point in time?

6 A That is correct. Prior to that, Secretary of the party, if it's relevant.

7 Q Thank you. What were your sort of informal responsibilities on either of
8 those campaigns in your capacity as vice chair of the State GOP?

9 A There was probably nothing specific to the Trump campaign. Again, my
10 role was to support all Republican candidates in the State. And so, the vice chairman's
11 role is primarily organizational, taking care of planning State party meetings and
12 conventions and that sort of thing. As I said, working -- working to identify and turn out
13 voters for the election.

14 Q So I'd like to shift over to the topic of the 2020 Presidential election. In,
15 let's say, after the Presidential election in 2020, so starting on November 3rd and in the
16 weeks thereafter, Mr. DeGraffenreid, did you participate in any conversations with any
17 individuals from the Trump campaign, the Trump White House, or the RNC about their
18 response to the Presidential election results?

19 A Upon advice of counsel, I am asserting my rights under Article I, Section 8 of
20 the Nevada Constitution and the Fifth Amendment to the United States Constitution.

21 The United States Supreme Court has long held that constitutional protections
22 against self-incrimination were designed to protect the innocent as well as the guilty.
23 The Supreme Court has also recognized that one of the basic functions of the privilege is
24 to protect innocent men, and has firmly rejected the view that any adverse assumptions
25 or implications of guilt should be drawn about anyone who exercises these cherished

1 constitutional rights.

2 Accordingly, upon advice of counsel, I expressly decline to answer your question.

3 Q Thank you, Mr. DeGraffenreid. And, of course, you are entitled to assert
4 your constitutional privileges under the Fifth Amendment.

5 We have communicated this previously to your counsel, but just so that you and I
6 are clear on how we'll proceed from here, we will continue to ask you questions. And at
7 any point when you wish to assert your Fifth Amendment privileges, you may do so in
8 response to a question.

9 Please do not feel as if you have to recite the entirety of what you just read each
10 time. If there is some shorthand that you'd like to refer to any time that you'd like to
11 assert a Fifth Amendment privilege, that's perfectly all right.

12 A I understand.

13 Q Thank you. So, with that, I will go ahead and move to the topic of Trump
14 Presidential electors in the 2020 Presidential election.

15 Mr. DeGraffenreid, can you describe your understanding of the concept of
16 alternate electors as it relates to the 2020 Presidential election?

17 A As stated previously, I expressly decline to answer your question under the
18 rights previously asserted.

19 Q Were you aware of a plan to convene alternate electors in Michigan,
20 Pennsylvania, Wisconsin, New Mexico, Georgia, Nevada or Arizona to cast electoral votes
21 for President Trump and Vice President Pence?

22 A Under advice of counsel, I assert the previous privilege.

23 Q When did you first become aware of a plan related to alternate electors in
24 the 2020 election, and who first told you about it?

25 A Under advice of counsel, I assert the previous privilege.

1 Q In your understanding, why was it necessary for alternate electors to
2 convene in these States?

3 A Under advice of counsel, I assert the prior privilege.

4 Q Did you participate in a meeting of alternate electors that took place in
5 Carson City, Nevada, on December 14, 2020, to cast electoral ballots for President Trump
6 and Vice President Pence?

7 A Under advice of counsel, I assert the prior privilege.

8 Q To your knowledge, who was involved in coordinating that ceremony from
9 either the Trump campaign, Trump legal team, Trump White House, or RNC?

10 A Under advice of counsel, I assert the prior privilege.

11 Q I am going to ask you about your communications with a number of
12 individuals regarding plans to convene an alternate set of electors. And for your sake so
13 you don't have to assert the privilege each time that I say a name, I will simply read the
14 list of names to you and you can respond as you see fit.

15 So my question is, did you have any communications with any of the following
16 Trump campaign officials regarding plans to convene an alternate set of electors for
17 Nevada: Rudy Giuliani, Jenna Ellis, Matt Morgan, Justin Clark, Nick Trainer, Kenneth
18 Chesebro, James Troupis, John Eastman, Boris Epshteyn, Bernard Kerik, Mike Roman or
19 Mike Brown?

20 A Under advice of counsel, I assert the prior privilege.

21 Q Did you have any communications with any of the following Trump White
22 House officials regarding plans to convene an alternate set of electors: President
23 Trump, Mark Meadows, or any other member of the administration?

24 A Under advice of counsel, I assert the prior privilege.

25 Q Were you aware of any coordination of alternate elector ceremonies across

1 multiple States? And when I say multiple States during the course of today's deposition,
2 I mean Michigan, Pennsylvania, Wisconsin, New Mexico, Georgia, Nevada or Arizona.

3 A Under advice of counsel, I assert the prior privilege.

4 Q Mr. DeGraffenreid, I'd like to direct your attention to the document in
5 exhibit 5. This is a document ending with Bates 591, and it appears to be a text message
6 conversation dated October 30, 2020, between you and Mr. Shawn Meehan.

7 Do you recognize this conversation?

8 A Under advice of counsel, I assert the prior privilege.

9 Q In this exchange at 4:30 p.m., it looks like Mr. Meehan wrote the following,
10 quote: "Been reading more on Electoral College. If things get really sorted up, I could
11 see Sisolak submitting one slate and Barbara having to send our slate. As she dislikes
12 controversial situations, I wonder how that plays out."

13 Then you responded, quote: "Elder might do a lot of things, but sending a slate
14 of Republican electors without them being clearly the winners of the popular vote is not
15 one of them."

16 Was this the first time that you had heard someone discuss sending competing
17 slates of electors in the event that President Trump didn't win the election in Nevada?

18 A Under advice of counsel, I assert the prior privilege.

19 Q It appears to me that this exchange took place before Election Day on
20 November 3rd. Why was this strategy the topic of discussion before you knew whether
21 President Trump had won Nevada or not?

22 A Under advice of counsel, I assert the prior privilege.

23 Q So next, I'll direct your attention to exhibit 6. This is a document ending in
24 Bates 544. This appears to be an exchange between you and Mr. Meehan dated
25 November 29, 2020.

1 And Mr. Meehan wrote, quote: "And we have a template for when we complete
2 ours and send it in ourselves when Sisolak refuses," unquote, referring to a certificate of
3 ascertainment, as discussed in your prior text message.

4 At this time, November 29th, was there a plan in place to prepare an alternate
5 certificate of ascertainment for President Trump's Nevada electors?

6 A On the advice of counsel, I assert the prior privilege.

7 Q Around this time, were you aware of any discussions involving the Trump
8 administration, Trump campaign, or RNC related to this scenario?

9 A Under advice of counsel, I assert the prior privilege.

10 Q We will discuss this in more detail shortly, but is it correct that you and the
11 other Trump electors in Nevada had filed a lawsuit in State Court related to the 2020
12 Presidential election results?

13 A Under advice of counsel, I assert the prior privilege.

14 Q Did you participate in any calls or meetings with anyone from the Trump
15 administration, Trump campaign, or RNC related to that litigation?

16 A Under advice of counsel, I assert the prior privilege.

17 Q Were you part of a discussion on December 8, 2020, related to alternate
18 electors?

19 A Under advice of counsel, I assert the prior privilege.

20 Q Did anyone from the Trump administration, Trump campaign, or RNC
21 participate in that discussion?

22 A Under advice of counsel, I assert the prior privilege.

23 Q So next I'd like to turn to exhibit 7, which is a document ending in Bates
24 number 634. While we pull it up, I will describe to you that this is a message exchange
25 between you, Mr. Meehan, and Jim Hindle dated December 9, 2020. And you wrote

1 below this message that's on the screen the following, quote: "And we need to also
2 decide if we're sending in our own ballot. Need to know which Senator and
3 Congressman will make the objection...Cruz and Jordan maybe."

4 Scroll down.

5 Was there a discussion at this time related to the submission of alternate electoral
6 ballots and, if so, among whom?

7 A Under advice of counsel, I assert the prior privilege.

8 Q Was the alternate elector plan contingent in any way upon the objection of a
9 House Member and a Senator during the certification on January 6th?

10 A Under advice of counsel, I assert the prior privilege.

11 Q And if you could scroll down, [REDACTED]

12 Later in this exchange, you wrote, quote: "Yes, the elector frustration was
13 clearly communicated last evening. Crystal clearly."

14 What frustration were you referring to in this message?

15 A Under advice of counsel, I assert the prior privilege.

16 Q Then below, you wrote the following, quote: "So we have some time to
17 consider and plan."

18 Could you please scroll down.

19 What were the relevant considerations in deciding to move forward with sending
20 alternate electoral ballots?

21 A Under advice of counsel, I assert the prior privilege.

22 Q Next, I'd like to direct your attention to exhibit 16. This is a Bates ending in
23 631, and I believe that it is another version of the message exchange that we were just
24 discussing.

25 This is dated December 9th, and it's between you, Mr. Meehan, and Mr. Hindle,

1 and in it, you write, quote: "Online with legal right now. Attorneys and campaign have
2 in mind to have the electors meet in Carson City Monday to cast our ballots and transmit
3 to the Senate."

4 Did you participate in a call on December 9th with members of the campaign to
5 discuss this issue?

6 A On advice of counsel, I assert the prior privilege.

7 Q Your message that we just discussed suggests to me that there had not yet
8 been a decision made regarding alternate electors at that time. What changed between
9 that and this message?

10 A On advice of counsel, I assert the prior privilege.

11 Q In your understanding, what was the basis for the campaign's plan for you to
12 cast your ballots?

13 A On advice of counsel, I assert the prior privilege.

14 Q Next, I'll direct your attention to exhibit 8. This is a document with Bates
15 ending in 774, and I'll describe to you that it is a December 10, 2020, email exchange from
16 an individual named Kenneth Chesebro to you, Mr. Michael McDonald, Mr. Jesse Law,
17 and it says the following, quote: "Mayor Giuliani and others with the Trump-Pence
18 campaign (including Justin Clark and Nick Trainer) asked me to reach out to you and the
19 other Nevada electors to run point on the plan to have all Trump-Pence electors in all six
20 contested States meet and transmit their votes to Congress on Monday, December 14."

21 Who, if you know, is Kenneth Chesebro?

22 A Under advice of counsel, I assert the prior privilege.

23 Q What was Mr. Chesebro's connection to Mr. Giuliani, Mr. Clark, and
24 Mr. Trainer, if you know?

25 A Under advice of counsel, I assert the prior privilege.

1 Q If you know, how were Mr. Giuliani, Mr. Clark, and Mr. Trainer involved in
2 the efforts relating to alternate electors?

3 A Under advice of counsel, I assert the prior privilege.

4 Q Do you know why Mr. Chesebro was reaching out to you, Mr. McDonald, and
5 Mr. Law, regarding this issue?

6 A Under advice of counsel, I assert the prior privilege.

7 Q In his email, Mr. Chesebro wrote that he was contacting you and the other
8 Nevada electors, quote, "to run point on the plan to have all Trump-Pence electors in all
9 six contested States meet."

10 That suggests to me that you were already somewhat familiar with this idea. Is
11 that accurate?

12 A Under advice of counsel, I assert the prior privilege.

13 Q Other than the communications we've already discussed, what other
14 conversations or communications did you have regarding the alternate electors plan with
15 any member of the RNC Trump campaign or Trump administration?

16 A Under advice of counsel, I assert the prior privilege.

17 Q Did you ever have any direct contact with Mr. Giuliani, Mr. Clark, or
18 Mr. Trainer, related to alternate electors?

19 A Under advice of counsel, I assert the prior privilege.

20 Q At the end of his email, Mr. Chesebro contains -- or includes, rather, a draft
21 press release that was slated for release as part of Wisconsin litigation. It's at the end of
22 the email and it's titled "Proposed Jim Troupis Statement on Electors' Meeting."

23 Do you know who Jim Troupis is?

24 A Under advice of counsel, I assert the prior privilege.

25 Q The last paragraph of that release contains the following, quote: "Given

1 that the results in Wisconsin are still in doubt, with legal arguments that have yet to be
2 decided...so, too, the Republican electors should meet this year on December 14 as we
3 await a final resolution in Wisconsin."

4 What did you understand this language in the press release to mean?

5 A Under advice of counsel, I assert the prior privilege.

6 Q And how did you think that guidance applied to your situation in Nevada?

7 A Under advice of counsel, I assert the prior privilege.

8 Q Was it your understanding that this guidance suggested that alternate
9 electors were appropriate because litigation was ongoing in your State?

10 A Under advice of counsel, I assert the prior privilege.

11 Q And did you understand Mr. Chesebro's guidance here to mean that
12 alternate electors were justified because the results in your State were, quote, "still in
13 doubt"?

14 A Under advice of counsel, I assert the prior privilege.

15 Q All right. So after receiving this email, it looks like you forwarded it on
16 December 10th at 4 p.m. to Mr. Hindle, Mr. Law, and Mr. McDonald, as well as Jesse
17 Binall, and you wrote, quote: "What do we know about Ken? Is this a legit outreach?"

18 What was your understanding of Mr. Chesebro's relationship to the campaign at
19 that time?

20 A Under advice of counsel, I assert the prior privilege.

21 Q Did you ever learn more information about that?

22 A Under advice of counsel, I assert the prior privilege.

23 Q Mr. Binall then responded to your email and wrote, quote: "I'll handle."

24 Without divulging the contents of any privileged communications, are you aware
25 of any further steps that Mr. Binall took on this issue?

1 A On advice of counsel, I assert the prior privilege.

2 Q So next, let's take a look at exhibit 9 with Bates number ending in 761. This
3 is a December 11th and 12th email exchange that starts with Mr. Chesebro emailing a
4 number of individuals whose email addresses indicate that they were affiliated with
5 either the Trump campaign or the GOP. And then later, it looks like it was forwarded to
6 you on December 12th.

7 And in Mr. Chesebro's original message, he wrote, quote: "As mentioned to
8 Mike Brown (who I am now copying on this thread), I was in email communication with
9 Jim DeGraffenreid a couple of days ago, and he was very responsive."

10 Do you know how the recipients on this initial email were involved in coordinating
11 alternate electors, if at all?

12 A On advice of counsel, I assert the prior privilege.

13 Q Mr. Chesebro, in this email, mentioned communication with you a couple of
14 days ago. Was that communication the email on December 10th or some other
15 communication earlier?

16 A On advice of counsel, I assert the prior privilege.

17 Q An individual named Jeremy Hughes then forwarded that message to
18 Mr. McDonald, you, and Jessica Hanson and wrote, quote: "Sounds like you all
19 connected. Feel like everything is good?"

20 What was your relationship with Mr. Hughes?

21 A On advice of counsel, I assert the prior privilege.

22 Q Had you two been in contact previously about alternate elector issues?

23 A On advice of counsel, I assert the prior privilege.

24 Q So attached to Mr. Chesebro's initial email are I count seven documents, one
25 of which I'd like to cover right now. That contains Bates number 762 and it's just further

1 down in the same exhibit.

2 It's a document that is titled "How to Cast Electoral Votes in Nevada." It looks
3 like it contains a number of instructions about meeting, convening the ceremony, et
4 cetera.

5 Was this essentially the guide that you followed when planning for the signing
6 ceremony?

7 A On advice of counsel, I assert the prior privilege.

8 Q On the fifth page of this exhibit, there is a section titled "Draft language for
9 NV Republican Party re: December 14 casting of electoral votes," and it contains the
10 following language in the last paragraph: "Given that the results in Nevada are still in
11 doubt, with legal arguments that have yet to be decided...so too the Republican electors
12 should meet this year on December 14 as we await a final resolution of Nevada's six
13 electoral votes."

14 Was this consistent with your understanding of the purpose of alternate electors?

15 A On advice of counsel, I assert the prior privilege.

16 Q In your understanding, were the election results in Nevada, quote, "still in
17 doubt" and, if so, how?

18 A On advice of counsel, I assert the prior privilege.

19 Q All right. Related to these documents, I'd like to ask a few questions about
20 the guidance that you received about the legality of the elector ceremony.

21 Did you ever have any discussions related to any legal issues surrounding an
22 alternate elector ceremony? And, again, I remind you that I'm asking you to answer
23 without divulging any attorney-client privileged information.

24 A On advice of counsel, I assert the prior privilege.

25 Q In your understanding, were there any key issues or concerns related to how

1 the ceremony was supposed to be conducted?

2 A On advice of counsel, I assert the prior privilege.

3 Q Did anyone provide you with any documentation or legal reasoning to
4 support this understanding of the law?

5 A On advice of counsel, I assert the prior privilege.

6 Q In any of these discussions, did you discuss Nevada's State laws regarding
7 the appointment of Presidential and Vice Presidential electors?

8 A On advice of counsel, I assert the prior privilege.

9 Q Were you aware of any concerns about whether such a ceremony was
10 allowed under State law?

11 A On advice of counsel, I assert the prior privilege.

12 Q Were you aware at that time that Nevada State law requires electors to
13 meet in the presence of the secretary of state?

14 A On advice of counsel, I assert the prior privilege.

15 Q At the time, were you aware that Nevada State law requires electors to
16 commit to voting for the popular vote winner in the State?

17 A On advice of counsel, I assert the prior privilege.

18 Q Did you have any discussions or receive any guidance as to how those State
19 laws would affect the alternate elector ceremony, if at all?

20 A On advice of counsel, I assert the prior privilege.

21 Q Was it your understanding that it was lawful to proceed with the alternate
22 elector ceremony in spite of these concerns and, if so, why?

23 A On advice of counsel, I assert the prior privilege.

24 Q Next, I'll direct your attention to exhibit 10, which ends in Bates number 746.
25 This is a memorandum from Mr. Chesebro addressed to Mr. Troupis dated November 18,

1 2020, although it's characterized as a December 10th streamlined revision, and the title is
2 "Regarding the Real Deadline for Settling a State's Electoral Votes."

3 Did you read this memorandum before the alternate elector ceremony on
4 December 14th?

5 A On advice of counsel, I assert the prior privilege.

6 Q I'll direct you to the second page of this document, which is under the
7 header, quote, "What Must Happen on December 14." And the second paragraph of
8 that reads: Prudence dictates that the electors in each State who are pledged to Trump
9 and Pence meet and cast their votes on December 14. It may seem odd that the
10 electors pledged to Trump and Pence might meet and cast their votes on December 14
11 even if, at that juncture, the Trump-Pence ticket is behind in the vote count, and no
12 certificate of election has been issued in favor of Trump and Pence. However, a fair
13 reading of the Federal statutes suggests that this is a reasonable course of action."

14 What was your understanding of the guidance provided in this memorandum?

15 A On advice of counsel, I assert the prior privilege.

16 Q On the basis of this guidance, was your understanding that an alternate
17 elector ceremony was a prudential or reasonable course of action to take?

18 A On advice of counsel, I assert the prior privilege.

19 Q So next, we'll turn to exhibit 11 with Bates number ending in 463. This is
20 another memorandum from Mr. Chesebro to Mr. Troupis dated December 9, 2020, and
21 it's titled "Regarding Statutory Requirements for December 14 Electoral Votes."

22 It contains a section titled "Federal Law" that runs through various statutory
23 requirements for casting electoral votes.

24 As you look through this document, are these instructions consistent with how
25 you prepared for and conducted the alternate elector ceremony in Nevada on December

1 14th?

2 A Under advice of counsel, I assert the prior privilege.

3 Q Did you follow the guidelines laid out here exactly, or did your circumstances
4 require any Nevada-specific alterations?

5 A Under advice of counsel, I assert the prior privilege.

6 Q So page 4 of this document outlines various State law provisions related to
7 Nevada.

8 And if you could scroll down, [REDACTED]

9 The first paragraph of the section begins, quote: "Nevada is an extremely
10 problematic State, because it requires the meeting of the electors to be overseen by the
11 secretary of state, who is only supposed to permit electoral votes for the winner of the
12 popular vote in Nevada."

13 What did you understand this to mean?

14 A Under advice of counsel, I assert the prior privilege.

15 Q With respect to the words "extremely problematic," did you understand that
16 to mean that it would be unlawful or problematic for some other reason?

17 A Under advice of counsel, I assert the prior privilege.

18 Q The section then continues, arguing that these provisions are designed to
19 thwart the faithless elector and then says, quote, that "They make no sense when applied
20 to this situation." Then: "Therefore, perhaps arguably the Nevada electors could
21 simply meet and cast their votes, without the involvement of the secretary of state."

22 And then further down, it says: "If there were a vote in Congress to take Nevada
23 away from Biden and Harris, presumably along with it would come a vote to overlook this
24 procedural detail."

25 What did you understand this guidance to mean?

1 A Under advice of counsel, I assert the prior privilege.

2 Q Did you understand this to mean that Nevada State laws did not apply to a
3 meeting of alternate electors?

4 A Under advice of counsel, I assert the prior privilege.

5 Q Did you understand this to mean that Nevada State law did apply, but that
6 Congress could choose to overlook it?

7 A Under advice of counsel, I assert the prior privilege.

8 Q How did you understand Mr. Chesebro's guidance to apply to the
9 requirement that electoral electors vote for the winner of the popular vote in Nevada, if
10 at all?

11 A Under advice of counsel, I assert the prior privilege.

12 Q Did Mr. Chesebro's analysis in this memo make sense to you?

13 A Under advice of counsel, I assert the prior privilege.

14 Q Did you discuss this analysis with anyone else?

15 A Under advice of counsel, I assert the prior privilege.

16 Q So going back to page 1, there are a few paragraphs that seem to provide an
17 executive summary of Mr. Chesebro's conclusion, and in the second paragraph he writes,
18 quote: "Most of the electors (with the possible exception of the Nevada electors) will
19 be able to take the essential steps needed to validly cast and transmit their votes."

20 And then further down, he says: "And, they can do so without any involvement
21 by the governor or any other State official (except in Nevada, where the secretary of state
22 is involved)."

23 What is your understanding of Mr. Chesebro's conclusion here?

24 A On advice of counsel, I assert the prior privilege.

25 Q Were you aware of any disagreements about the conclusions that

1 Mr. Chesebro drew in this memo?

2 A On advice of counsel, I assert the prior privilege.

3 Q Did you or the other electors ever consider trying to convene before the
4 secretary of state to cast your votes?

5 A On advice of counsel, I assert the prior privilege.

6 Q Did you ever consider signing a pledge to the effect that President Trump
7 was the winner of the popular vote in Nevada?

8 A On advice of counsel, I assert the prior privilege.

9 Q Let's move to exhibit 12. This is a document ending in Bates 786, and it
10 appears to be a December 10th and 11th email exchange that starts from Mr. Chesebro
11 to you.

12 And in that email, Mr. Chesebro wrote, quote: "I spoke this evening with Mayor
13 Giuliani, who is focused on doing everything possible to ensure that all the Trump-Pence
14 electors vote on December 14."

15 What was Mr. Giuliani's role in coordinating alternate electors, if you know?

16 A On advice of counsel, I assert the prior privilege.

17 Q If you know, what did Mr. Chesebro mean when he wrote that Mr. Giuliani
18 was, quote, "doing everything possible to ensure that the alternate electors voted"?

19 A On advice of counsel, I assert the prior privilege.

20 Q Later in this message, Mr. Chesebro writes, quote: "You'll note that page 4
21 of the December 9 memo mentions a concern regarding Nevada law, about the role of
22 the secretary of state. It may well be that the electoral vote needs to proceed without
23 the participation of the secretary of state, on the view that these technical aspects of
24 State law are unlikely to matter much in the end."

25 What did you understand Mr. Chesebro to mean when he wrote that it may well

1 be that the electoral vote needs to proceed without the participation of the secretary of
2 state?

3 A On advice of counsel, I assert the prior privilege.

4 Q Did you understand Mr. Chesebro to be telling you that it was lawful under
5 Nevada State law to convene alternate electors without the secretary of state?

6 A On advice of counsel, I assert the prior privilege.

7 Q What did you understand Mr. Chesebro to mean when he wrote that, quote,
8 "these technical aspects of State law are unlikely to matter much in the end"?

9 A On advice of counsel, I assert the prior privilege.

10 Q So after you received this email from Mr. Chesebro, it looks like you
11 forwarded it to Mr. McDonald and Ms. Hanson on December 11th, and you wrote, quote:
12 "I've connected Jesse Binall and Ken to discuss details, and wanted both of you to have
13 this background info. It explains very clearly the process and the justification for our
14 actions."

15 Did you understand Mr. Chesebro's guidance to have effectively signed off on
16 moving forward with an electoral vote ceremony?

17 A On advice of counsel, I assert the prior privilege.

18 Q Other than what we've already discussed, did you receive any other
19 guidance on the legality of the alternate elector ceremony?

20 A On advice of counsel, I assert the prior privilege.

21 Q Do you recall any of the Nevada electors expressing any doubts or concerns
22 about the basis for the plan, from a State-law perspective?

23 A On advice of counsel, I assert the prior privilege.

24 Q Do you recall any of the Nevada electors expressing any other kinds of
25 doubts or concerns about the plan?

1 A On advice of counsel, I assert the prior privilege.

2 Q Briefly, I'd like to talk through a few questions related to the lawsuit that you
3 and the other Trump electors filed in Nevada.

4 Other than you and your lawyers, was anyone else involved in coordinating that
5 litigation from the Trump administration, Trump campaign, or RNC?

6 A On advice of counsel, I assert the prior privilege.

7 Q And briefly, I'd just like to cover the timeline of that litigation to make sure
8 that I understand it correctly. Is it correct that you filed the lawsuit in State District
9 Court on November 17, 2020?

10 A On advice of counsel, I assert the prior privilege.

11 Q Is it correct that the District Court dismissed that case on December 4, 2020?

12 A On advice of counsel, I assert the prior privilege.

13 Q Is it correct that you then appealed that ruling to the Nevada Supreme
14 Court?

15 A On advice of counsel, I assert the prior privilege.

16 Q Is it correct that the Nevada Supreme Court affirmed the lower court's ruling
17 on December 8, 2020?

18 A On advice of counsel, I assert the prior privilege.

19 Q After the Nevada State Supreme Court issued its decision, what was your
20 understanding of the state of the litigation?

21 A On advice of counsel, I assert the prior privilege.

22 Q Do you recall any discussions about whether to appeal the Nevada State
23 Supreme Court decision to the U.S. Supreme Court?

24 A On advice of counsel, I assert the prior privilege.

25 Q I will direct your attention to exhibit 16, which we previously discussed.

1 This is Bates number ending in 631, and it's the December 9, 2020, exchange between
2 you, Mr. Meehan, and Mr. Hindle.

3 And in it, you wrote, quote: "Online with legal right now." And then in the
4 message below, you wrote, quote: "They are also looking at ways we might have
5 certiorari at SCOTUS."

6 At that time, if you know, and without divulging any privileged communications,
7 what was the campaign's plan in terms of the justifications for filing for certiorari?

8 A On advice of counsel, I assert the prior privilege.

9 Q Was filing for certiorari connected to the alternate elector ceremony, if at
10 all?

11 A On advice of counsel, I assert the prior privilege.

12 Q Let's turn to exhibit 18. This is a document with Bates ending in 778, and
13 this appears to be a December 11, 2020 email exchange that is a separate thread of the
14 exchange that you had with Mr. Chesebro on December 11th that we discussed in exhibit
15 8.

16 And in that separate thread, it appears that Mr. Chesebro wrote to you on
17 December 11th and wrote, quote: "Can you tell me whether all court challenges in
18 Nevada are final? I'm wondering if there will be an effort to seek Supreme Court review
19 of this decision."

20 Why was Mr. Chesebro asking about the status of the Nevada State Court
21 litigation, in your understanding?

22 A On advice of counsel, I assert the prior privilege.

23 Q In your understanding, why did it matter whether the litigation was still
24 ongoing?

25 A On advice of counsel, I assert the prior privilege.

1 Q Was it your understanding that litigation needed to be ongoing in order for
2 the alternate elector ceremony to be able to proceed?

3 A On advice of counsel, I assert the prior privilege.

4 Q So, after receiving this email from Mr. Chesebro, it looks like you connected
5 him with your lawyer, Mr. Binall, and wrote that you were -- that you were forwarding
6 that request for information to him.

7 A Again, without divulging any privileged communications, are you aware of any
8 further conversations between Mr. Binall and Mr. Chesebro regarding the status of the
9 litigation?

10 A On advice of counsel, I assert the prior privilege.

11 Q Did the plans that you had about appealing the Nevada Supreme Court
12 ruling change after you put Mr. Binall in touch with Mr. Chesebro?

13 A On advice of counsel, I assert the prior privilege.

1

2 [3:10 p.m.]

3

BY

4

Q Were you a part of a discussion on December 12, 2020, related to Nevada

5

State court litigation or alternate electors?

6

A On advice of counsel, I assert the prior privilege.

7

Q Next, I will direct you to exhibit 19 ending in Bates 569.

8

This appears to be a message exchange between you, Mr. Hindle, and Ms. Hanson,

9

and it is dated December 12, 2020. Ms. Hanson wrote to you, quote: Just FYI,

10

National wants to kill going to the Supreme Court. Doing another call in the a.m. And

11

they don't want press or rallies on Monday. Not sure why.

12

Did you participate in any discussions where this issue was covered?

13

A On advice of counsel, I assert the prior privilege.

14

Q In your understanding, why did National want to, quote, "kill going to the

15

Supreme Court"?

16

A On advice of counsel, I assert the prior privilege.

17

Q In the earlier exchange that we discussed, you had sent a message saying

18

that attorneys in the campaign were looking at ways we might have certiorari at SCOTUS.

19

What, in your understanding, changed between that message and this one?

20

A On advice of counsel, I assert the prior privilege.

21

Q Next, let's take a look at exhibit 20 with Bates ending in 539.

22

This is a December 13, 2020, text message exchange between you and Mr. Law,

23

and in it, Mr. Law wrote, quote: SCOTUS filing either canceled or delayed. I think

24

delayed is likely to get past tomorrow.

25

Do you know why the filing was either canceled or delayed?

1 A On advice of counsel, I assert the prior privilege.

2 Q Do you know what Mr. Law meant when he said that delayed was, quote,
3 "likely"?

4 A On advice of counsel, I assert the prior privilege.

5 Q When Mr. Law wrote that delay was likely, quote, "to get past tomorrow," in
6 your understanding, was he referring to the elector ceremony on December 14th?

7 A On advice of counsel, I assert the prior privilege.

8 Q In your understanding, was the purpose of a delay to ensure that litigation
9 was still pending when the elector ceremony happened?

10 A On advice of counsel, I assert the prior privilege.

11 Q And, in this message, Mr. Law wrote that the filing was either canceled or
12 delayed.

13 Do you know what decision was made between those two options?

14 A On advice of counsel, I assert the prior privilege.

15 Q And did you ultimately file a petition for certiorari in this litigation?

16 A On advice of counsel, I assert the prior privilege.

17 Q Okay. In that same message from Mr. Law, he wrote, quote: Suddenly
18 mixed messages and direction on publicity for tomorrow. Not pleased that was raised
19 on the call and not with me beforehand. Upset chairman.

20 Who was delivering mixed messages on publicity, and what were those mixed
21 messages?

22 A On advice of counsel, I assert the prior privilege.

23 Q In your understanding, Mr. DeGraffenreid, what were the concerns related
24 to publicizing the alternate electors ceremony?

25 A On advice of counsel, I assert the prior privilege.

1 Q So, next, I will direct your attention to exhibit 21 with Bates ending in 810.

2 This is a December 13, 2020, email from Ms. Hanson to a number of individuals,
3 including Mr. McDonald and you, containing an invitation to edit a document titled
4 "Elector Voting Talking Points."

5 The attachment that's linked here is contained on the next page of this exhibit and
6 appears to contain those talking points. I'm only going to cover just a few of them.

7 Let's start with the fourth bullet, which reads, quote: No court of law
8 meaningfully heard our evidence or allowed us to fully plead our case. No one reviewed
9 the more than 8,000 pages of evidence.

10 At the time that this document was circulated, what was your understanding of
11 the electors' intention to file an appeal to the Supreme Court?

12 A On advice of counsel, I assert the prior privilege.

13 Q Why would you refer to this litigation in the past tense if you were still
14 planning on pursuing further litigation?

15 A On advice of counsel, I assert the prior privilege.

16 Q Next, in what I believe is the eighth bullet in this document, it reads, quote:
17 The cash-for-votes scheme has been turned over to the FBI. They have not made any
18 declaration saying this investigation is completed, and as such, Congress should not
19 certify the electoral votes with ongoing investigations.

20 What, if you know, was the significance of this statement?

21 A On advice of counsel, I assert the prior privilege.

22 Q Do you recall any concerns about the wording of any part of this statement?

23 A On advice of counsel, I assert the prior privilege.

24 Q All right.

25 So, next, I'll go ahead and move to the ceremony itself.

1 And who participated, in your knowledge, in the logistics for preparing the
2 alternate electors ceremony that took place in Carson City on December 14th?

3 A On advice of counsel, I assert the prior privilege.

4 Q And who participated in efforts to coordinate messaging or press coverage
5 relating to that event, if you know?

6 A On advice of counsel, I assert the prior privilege.

7 Q Did you receive any instructions not to publicize that event?

8 A On advice of counsel, I assert the prior privilege.

9 Q Were members of the Trump administration, Trump campaign, or RNC
10 involved in any of the discussions that I just asked you about?

11 A On advice of counsel, I assert the prior privilege.

12 Q Let's move to exhibit 24. This is a document ending with Bates 544.

13 And it appears to be a December 13, 2020, exchange between you and Mr.
14 Meehan, and in it Mr. Meehan wrote, quote: We just have to meet is all required,
15 right? In Carson City is only requirement not certain building? NVSOS not being there
16 dorks it up too.

17 I will assume that Mr. Meehan was using a more colorful word that got
18 auto-corrected there, but if you know, what did he mean when he said that the NVSOS
19 not being there dorks it up?

20 A On the advice of counsel, I assert the prior privilege.

21 Q Are you aware of any other discussions that we haven't already covered
22 regarding whether the ceremony could proceed without the Nevada secretary of state?

23 A On advice of counsel, I assert the prior privilege.

24 Q In a later message further down in this chain, Mr. Meehan wrote, quote:
25 Was pretty pissed off last night on call. Good thing you missed it. J. Law and Amanda

1 were trying to change the location and say no crowd. I was very clear that we were
2 cleared to precede on our prior call, time/location set.

3 In this message, you referred to a call that happened the night before, which
4 would have been December 12th. Did you participate in that call, Mr. DeGraffenreid?

5 A On advice of counsel, I assert the prior privilege.

6 Q Do you know why Mr. Law and Amanda were trying to change the location
7 and say no crowd?

8 A On advice of counsel, I assert the prior privilege.

9 Q And, if you know, why do you think Mr. Meehan thought a larger crowd was
10 better?

11 A On advice of counsel, I assert the prior privilege.

12 Q At a high level, could you describe to me your understanding of what was
13 supposed to take place during the ceremony on December 14th itself? And by that I
14 mean speeches, signing ceremony, public statements, things like that.

15 A On advice of counsel, I assert the prior privilege.

16 Q Okay. So I'll direct your attention to exhibit 25. This is a document
17 ending with Bates 550.

18 And it's another exchange with Mr. Meehan, and in the top center image, Mr.
19 Meehan wrote, on December 13, 2020, quote: Actual signing 11 a.m., recreate
20 ceremony for public at noon, some speeches, yada yada. RNC essentially put us in a box
21 on what we can say, but doesn't sound too bad.

22 Is it correct that the actual signing of the ballots took place privately followed by a
23 public event later that day?

24 A On advice of counsel, I assert the prior privilege.

25 Q Is Mr. Meehan's description consistent with how the ceremony ended up

1 taking place, as far as you know?

2 A On advice of counsel, I assert the prior privilege.

3 Q Who in the RNC was coordinating with you on messaging?

4 A On advice of counsel, I assert the prior privilege.

5 Q What limitations did they place on the statements that you could make at
6 the ceremony?

7 A On advice of counsel, I assert the prior privilege.

8 Q What did you want to say and what were the RNC's concerns about it?

9 A On advice of counsel, I assert the prior privilege.

10 Q So, later in this exchange, you and Mr. Meehan had kind of a back and forth,
11 and I'm going to read a couple of his messages for efficiency's sake.

12 So he wrote, quote: Spoke to the chairman. Wants a smaller group of us for
13 planning at breakfast.

14 And then he wrote, quote: He's stressing on the optics.

15 And then he wrote, quote: Mike, Kevin, you, T, Hindle, me to plan out
16 ceremony, outlines speeches.

17 And then, in a later text message, he wrote, quote: He's -- referring to Mr.
18 McDonald -- He's very concerned RNC will cut cord if it looks bad and steal credit if we do
19 well.

20 Do you know why Mr. McDonald wanted a smaller group planning the ceremony
21 that day?

22 A On advice of counsel, I assert the prior privilege.

23 Q And what were Mr. McDonald's concerns about the optics of the ceremony?

24 A On advice of counsel, I assert the prior privilege.

25 Q Who were the individuals that Mr. Meehan referenced in this message and

1 what were their roles in planning the event?

2 A On advice of counsel, I assert the prior privilege.

3 Q Can you explain Mr. McDonald's concern with respect to the RNC, if you
4 know?

5 A On advice of counsel, I assert the prior privilege.

6 Q And, if you know, what were the RNC's concerns about holding this
7 ceremony, if any?

8 A On advice of counsel, I assert the prior privilege.

9 Q So, in one of those messages from the lower left-hand image, you responded
10 to Mr. Meehan, quote: I know. He's concerned that we look like foolish crybabies.
11 Have tried to explain.

12 What were Mr. McDonald's concerns about the ceremony that he expressed to
13 you?

14 A On advice of counsel, I assert the prior privilege.

15 Q And what was the substance of your disagreement with his concerns?

16 A On advice of counsel, I assert the prior privilege.

17 Q On the lower right image, Mr. Meehan wrote, quote: Attorney Jesse and
18 Amanda said we're clear to announce the same is occurring in all States where votes were
19 stolen. We're in good company.

20 Were you a part of any discussions related to this issue?

21 A On advice of counsel, I assert the prior privilege.

22 Q Were you originally discouraged from identifying that other States were
23 holding alternate elector ceremonies? And, if so, by whom?

24 A On advice of counsel, I assert the prior privilege.

25 Q If you know, what was the concern about making public the existence of

1 those ceremonies in other States?

2 A On advice of counsel, I assert the prior privilege.

3 Q Who made the decision to allow you to discuss the other States publicly?

4 And, if so, why?

5 A On advice of counsel, I assert the prior privilege.

6 [REDACTED] I think we've hit a stopping point, and I know that we've been
7 speaking for about an hour and a half. So perhaps now is a good time to take a brief
8 break, if that's all right with everyone.

9 Mr. Kelesis. Yes, that's good.

10 Mr. Hardy. So what do we need? 10 minutes or so?

11 [REDACTED] That sounds good. So let's reconvene at 36 minutes after the
12 hour, if that works for you.

13 Mr. Hardy. Yeah, that's fine.

14 [REDACTED] All right. Great.

15 We will go off the record.

16 [Recess.]

1

2 [3:43 p.m.]

3 [REDACTED] We will now go on the record, and the time is 3:43 p.m. eastern.

4 [REDACTED]

5 Q Mr. DeGraffenreid, I would like to ask you a few questions about the
6 documents that were submitted as part of the alternate electors ceremony on
7 December 14th.

8 So my question to you is, I understand that you signed and submitted a number of
9 documents in connection with that ceremony, including a Certificate of President Trump's
10 Electoral Votes in Nevada, as well as individual ballots for President and Vice President.
11 Is that correct?

12 A On advice of counsel, I assert the prior privilege.

13 Q Were the documents that you signed and submitted the versions of the
14 documents that you'd received from Mr. Chesebro?

15 A On advice of counsel, I assert the prior privilege.

16 Q Did you make any changes to the documents before using them at the
17 signing ceremony?

18 A On advice of counsel, I assert the prior privilege.

19 Q Are you aware of any discussions as to whether revisions were necessary?

20 A On advice of counsel, I assert the prior privilege.

21 Q I would like to direct your attention to exhibit 26 with Bates ending in 637.

22 This is another piece of the exchange between you, Mr. Meehan, and Mr. Hindle.

23 And this particular exchange is dated December 9, 2020. In it Mr. Meehan

24 wrote -- [REDACTED] it's on page 7 of the exhibit, and in it Mr. Meehan wrote, quote: If we
25 make up our own Certificate of Ascertainment, it probably ought to have two whereas

1 statements and maybe one resolved based on us concluding that we're responding to a
2 fraudulent election and this is why we are justified and submitting this.

3 If you know, why did Mr. Meehan feel that it was important to include this
4 language in a Certificate of Ascertainment?

5 A Under advice of counsel, I assert the prior privilege.

6 Q Did you agree that it was important to include this language in a Certificate
7 of Ascertainment? And, if so, why?

8 A Under advice of counsel, I assert the prior privilege.

9 Q Are you aware of any discussions about whether this kind of language was
10 necessary in the Certificate of Ascertainment or any of the other documents?

11 A On advice of counsel, I assert the prior privilege.

12 Q Next, I would like to turn to exhibit 30. This is a piece of an exchange
13 between you and Mr. Law on December 13, 2020, and in it, Mr. Law wrote -- it's at the
14 bottom of the page. Mr. Law, wrote, quote, "Great. Please do once you get those
15 12th amendment adjustments made," after you wrote to him, "I can send you the forms if
16 you want to print all the sets."

17 What were the 12th amendment adjustments that Mr. Law thought needed to be
18 made to the relevant forms?

19 A On advice of counsel, I assert the prior privilege.

20 Q Do you know why those changes were necessary?

21 A On advice of counsel, I assert the prior privilege.

22 Q And do you know whether the documents were ever revised accordingly?

23 A On advice of counsel, I assert the prior privilege.

24 Q So, later in this exchange, you responded, quote: Shawn -- presumably
25 you're referring to Mr. Meehan -- pointed out a serious error on the certification, so I

1 need to modify that form.

2 What was the serious error that Mr. Meehan identified on the certification?

3 A On advice of counsel, I assert the prior privilege.

4 Q And were the relevant forms ever revised accordingly, if you know?

5 A On advice of counsel, I assert the prior privilege.

6 Q Let's turn to exhibit 27, Bates number ending in 470.

7 This is titled "Memorandum," and it looks like it's a letter that's addressed to the
8 President of the Senate, of the United States Senate, the Archivist of the United States,
9 the secretary of state of the State of Nevada, and the Chief Judge of the U.S. District Court
10 for the District of Nevada, dated December 14th.

11 And it contains the following language, quote: Enclosed please find duplicate
12 originals of Nevada's electoral votes for President and Vice President.

13 If you know, is this the cover letter that was submitted along with the electoral
14 votes cast by the Nevada Trump electors?

15 A On advice of counsel, I assert the prior privilege.

16 Q Is this the same version of the letter that you received from Mr. Chesebro, or
17 was it altered in any way, if you know?

18 A On advice of counsel, I assert the prior privilege.

19 Q And did you have any discussions about revising this document before
20 sending it?

21 A On advice of counsel, I assert the prior privilege.

22 Q Okay. Let's go to exhibit 28, with Bates ending in 477.

23 This is a document that is titled "Certificate of the Votes of the 2020 Electors from
24 Nevada," containing six
25 electoral votes for Donald Trump for President.

1 If you know, is this the certificate that was submitted along with the electoral
2 votes cast by the Nevada Trump electors?

3 A On advice of counsel, I assert the prior privilege.

4 Q Is this the same version of the letter that you received from Mr. Chesebro, or
5 did you revise it in any way before sending?

6 A On advice of counsel, I assert the prior privilege.

7 Q And did you have any discussions about revising this document before
8 sending it?

9 A On advice of counsel, I assert the prior privilege.

10 Q The first paragraph of this document reads as follows, quote: We, the
11 undersigned, being the duly elected and qualified electors for President and Vice
12 President of the United States of America from the State of Nevada, do hereby certify the
13 following.

14 In your view, did this certificate purport to show that you and the other alternate
15 electors were the duly elected and qualified electors from Nevada?

16 A On advice of counsel, I assert the prior privilege.

17 Q Was it your understanding that the purpose of submitting alternate electoral
18 votes for President Trump was a provisional measure pending the outcome of litigation?

19 A On advice of counsel, I assert the prior privilege.

20 Q In your view, is the language in this document consistent with the belief that
21 the electoral ballots were provisional?

22 A On advice of counsel, I assert the prior privilege.

23 Q Did you have any discussions or do you know of any discussions about
24 altering the language in the certificate to reflect a belief that the electoral votes were
25 meant to be provisional?

1 A On advice of counsel, I assert the prior privilege.

2 Q Mr. DeGraffenreid, I understand that alternate electors in some States
3 edited the language in their versions of this document to indicate an understanding that
4 the votes were provisional. And I will read two of those for you.

5 In particular, in New Mexico, electors included the language, quote: We, the
6 undersigned, on the understanding that it might later be determined that we are the duly
7 elected and qualified electors.

8 And in Pennsylvania, electors included the language quote: We, the
9 undersigned, on the understanding that if as a result of a final non-appealable court order
10 or other proceeding prescribed by law we are ultimately recognized as being the duly
11 elected and qualified electors.

12 Were you aware of any alterations to the language in other States' version of this
13 document?

14 A On advice of counsel, I assert the prior privilege.

15 Q And is there any reason that you felt that it wasn't necessary in your case?

16 A On advice of counsel, I assert the prior privilege.

17 Q Do you recall, or are you aware of any discussions about the significance of
18 characterizing the vote as provisional or not?

19 A On advice of counsel, I assert the prior privilege.

20 Q Next, I'll direct your attention to exhibit 29 with Bates number ending in 479.

21 The second page of this document reads, "State of Nevada," then "Nevada
22 Presidential Elector Official Ballot for President of the United States," and, quote, "I
23 hereby cast my vote for blank for President of the United States," and then in handwriting
24 appears the name Donald J. Trump.

25 Is that your handwriting, Mr. DeGraffenreid?

1 A On advice of counsel, I assert the prior privilege.

2 Q At the bottom of this document, there is a signature.

3 Is that your signature, Mr. DeGraffenreid?

4 A On advice of counsel, I assert the prior privilege.

5 Q Is this the document that you signed on December 14, 2020, in Carson City,
6 Nevada?

7 A On advice of counsel, I assert the prior privilege.

8 Q Briefly, if you can, I would ask that you describe what took place during the
9 public ceremony that you and other Trump electors held in Carson City on
10 December 14th.

11 A On advice of counsel, I assert the prior privilege.

12 Q Did you make any statements during that ceremony reflecting a belief that
13 the electoral votes you were casting were provisional?

14 A On advice of counsel, I assert the prior privilege.

15 Q Next let's turn to exhibit 34 with Bates number ending in 813.

16 This is a December 14, 2020, email exchange, and I will describe to you on the
17 screen that it contains a message from the Nevada GOP containing, quote, a statement
18 on the Nevada Republican presidential electors casting electoral votes for President
19 Donald J. Trump and Vice President Michael Pence.

20 And it looks like it is forwarded to a number of individuals, including Mr. Hindle,
21 Ms. Hanson, Mr. McDonald, you, and others.

22 And the bottom, second page of this email contains the language from this
23 release.

24 In the third paragraph, it reads, quote: There is a legitimate concern over the
25 rightful victor in the Silver State. A court of law has failed to meaningfully evaluate the

1 evidence and our law enforcement agencies and government officials have failed to
2 investigate. This left our electors no choice but to send their votes for President Trump
3 to Congress to make a determination as to who is the rightful victor of Nevada between
4 the dueling votes.

5 What, if any, Mr. DeGraffenreid, was your role in preparing this statement?

6 A On advice of counsel, I assert the prior privilege.

7 Q If you know, what did it mean to say that a court of law has, quote, failed to
8 meaningfully evaluate the evidence?

9 A On advice of counsel, I assert the prior privilege.

10 Q The specific language in this statement says that electors have no choice,
11 quote, but to send their votes for President Trump to Congress to make a determination
12 as to who is the rightful victor of Nevada.

13 In your view, is that language consistent with a belief that the electoral votes were
14 provisional?

15 A On advice of counsel, I assert the prior privilege.

16 Q Finally, the bottom of this document contains a statement that's attributed
17 to Nevada GOP chairman, Mr. McDonald, and it contains the following, quote: The
18 people of Nevada did not have a fair election due to the irregularities and fraud seen
19 throughout the State. With ongoing challenges and evidence left to be meaningfully
20 investigated, we must submit our electoral votes for the rightful victors and allow
21 Congress to make a determination.

22 In your understanding, what were the ongoing challenges and evidence left to be
23 meaningfully investigated that this refers to?

24 A On advice of counsel, I assert the prior privilege.

25 Q So, based on the documents that you produced, we understand that Mr.

1 McDonald mailed the electoral ballots and other materials on the same day as the
2 ceremony, December 14th. Is that correct?

3 A On advice of counsel, I assert the prior privilege.

4 Q If you know, what was the significance of sending the ballots on
5 December 14th?

6 A On advice of counsel, I assert the prior privilege.

7 Q And, if you know, why didn't Mr. McDonald wait to send the ballots until
8 after the resolution of any ongoing disputes about Nevada's election outcome?

9 A On advice of counsel, I assert the prior privilege.

10 Q Did you have discussions about this question with anyone from the Trump
11 administration, Trump campaign, or the RNC?

12 A On advice of counsel, I assert the prior privilege.

13 Q All right. I have just one other quick area that I would like to talk through
14 with you, Mr. DeGraffenreid, so we're close to being finished.

15 We understand that Members of Congress reached out to individuals in the
16 Nevada State Republican Party in order to collect evidence of election fraud in advance of
17 the Joint Session of Congress on January 6, 2021.

18 Is that accurate?

19 A On advice of counsel, I assert the prior privilege.

20 Q To your knowledge, who -- specifically which Members of Congress reached
21 out seeking information?

22 A On advice of counsel, I assert the prior privilege.

23 Q What, if anything, did they say about how they intended to use the
24 information they were seeking from you?

25 A On advice of counsel, I assert the prior privilege.

1 Q What, if anything, did they say about what they intended to do during the
2 Joint Session of Congress on January 6th?

3 A On advice of counsel, I assert the prior privilege.

4 Q And, as far as you know, what information did you or others in Nevada
5 provide to them in response to those requests?

6 A On advice of counsel, I assert the prior privilege.

7 Q Did you have any other contacts with Members of Congress, members of the
8 Trump White House, the Trump campaign, or the RNC regarding the Joint Session?

9 A On advice of counsel, I assert the prior privilege.

10 Q Next, let's turn to exhibit 37, which is a Bates number ending in 544.

11 This looks like a message exchange between you and Mr. Meehan, dated
12 December 18, 2020, and in it, you wrote, quote, Andy Biggs, who signed on to the letter,
13 has reached out to NV to ask about our evidence.

14 What evidence was Representative Biggs seeking from you?

15 A On advice of counsel, I assert the prior privilege.

16 Q And did you or anyone else provide him with information, as far as you
17 know?

18 A On advice of counsel, I assert the prior privilege.

19 Q To your knowledge, did any other House Member reach out to people in
20 Nevada related to evidence of election fraud?

21 A On the advice of counsel, I assert the prior privilege.

22 Q Let's go to exhibit 38 with Bates ending in 579.

23 This is a December 20, 2020, exchange between you, Mr. McDonald, and Jolette
24 Gowens, and it looks like you sent the others a press release from Representative Brooks'
25 office, and you said, quote: Can't remember if I sent y'all this or not, but it's likely that

1 this is what was behind the phone call from AZ.

2 Is the phone call that you reference in this message the same or different than
3 what you referred to from Mr. Biggs earlier?

4 A On advice of counsel, I assert the prior privilege.

5 Q In another message you wrote, quote: Sounds like they're doing their
6 homework in advance of January 6th.

7 What do you mean by that?

8 A On advice of counsel, I assert the prior privilege.

9 Q Next let's move to exhibit 39 with Bates ending in 564.
10 This looks like a December 29, 2020, text message exchange between you and
11 Janet Freixas, although I'm certain that I have just mispronounced that last name. And
12 in it, she writes, quote: I know I am grasping at straws here and I know it is in your
13 arsenal (just want to make sure it didn't slip out), has anyone put anything on record that
14 the Democrats ballots were filed inappropriately?

15 And then you responded, quote: I believe that's still a day-of objection by
16 Congress. It has been shared with the objectors.

17 Who were the objectors that you were referring to in this message?

18 Mr. Hardy. Your audio is cutting out. Your audio just cut out.

19 [REDACTED] Sorry about that. Can you hear us now?

20 Mr. Kelesis. Yes.

21 Mr. Hardy. Try it again, [REDACTED]

22 [REDACTED] Give us one second.

23 How about now?

24 Mr. Hardy. There you go.

25 [REDACTED] All right. Perfect.

1 Well, I'll repeat my question just so Mr. DeGraffenreid knows what I was referring
2 to.

3

BY [REDACTED]

4 Q So I was asking specifically about his message in which he wrote: I believe
5 that's still a day-of objection by Congress. It has been shared with the objectors.

6 And my question was who the objectors were that you were referring to in this
7 message?

8 A On advice of counsel, I assert the prior privilege.

9 Q Other than the individuals that we've discussed, are you aware of any
10 Members of Congress or their staff communicating with you or others in Nevada in
11 advance of the January 6th joint session?

12 A On advice of counsel, I assert the prior privilege.

13 [REDACTED] All right. So I don't have any further substantive questions,
14 although I do have a few final questions to wrap up.

15 Before I do, [REDACTED] just let me know if you have anything.

16 [REDACTED] No.

17 [REDACTED] All right.

18

BY [REDACTED]

19 Q So, Mr. DeGraffenreid, is there anyone we should talk to in order to learn
20 more about the issues that we've discussed today?

21 A On advice of counsel, I assert the prior privilege.

22 Q All right.

23 Are there other sources of information that would be helpful for us to collect?

24 A On advice of counsel, I assert the prior privilege.

25 Q And are there any issues that we haven't discussed that you think are

1 relevant for us to pursue?

2 A On advice of counsel, I assert the prior privilege.

3 [REDACTED] Thank you, Mr. DeGraffenreid.

4 That concludes all the questions that I have for you today.

5 And, before we go off the record, I will thank you for your time.

6 By way of explanation, what we will do from here is that this executive session of
7 the select committee will go into recess. And what that means is, while the select
8 committee does not have any plans to reach out to you or speak with you further after
9 our discussion today, that still allows us to continue to speak with you in the event that
10 we have additional questions we need to ask or if your position on invoking your Fifth
11 Amendment privileges should change at any time.

12 Does that make sense?

13 Mr. Hardy. Yes.

14 The Witness. I understand.

15 [REDACTED]. All right. Again, I'll thank you so much for your time. It is 4:09
16 p.m. eastern, and we can go off the record.

17 [Whereupon, at 4:09 p.m., the deposition was recessed, subject to call of the
18 chair.]

1 Certificate of Deponent/Interviewee

2

3

4 I have read the foregoing ____ pages, which contain the correct transcript of the
5 answers made by me to the questions therein recorded.

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Witness Name

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Date

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